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Attorneys for Defendant  
Subaru of America, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**Chad Udeen and Mary Jane  
Jeffery, on behalf of  
themselves and all others  
similarly situated,**

Plaintiffs;

v.

**Subaru of America, Inc.,**

Defendant.

Case No.  
\_\_\_\_\_

**Notice of Removal  
(28 U.S.C. § 1453)**

TO: THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

1. Subaru of America, Inc. is the defendant in a civil action originally filed on November 28, 2018 in the Superior Court of New Jersey, Law Division, Camden County, Docket No. CAM-L-004425-18, entitled *Udeen v. Subaru of America, Inc.*

**TIMELINESS OF REMOVAL**

2. Plaintiffs provided Defendant with notice and request for waiver of service on

November 28, 2018, and Defendant accepted service on December 6, 2018.

3. This removal is timely under 28 U.S.C. § 1446(b) because it is within 30 days of the date on which the removing defendant first had notice that the case was removable.

### **PAPERS IN REMOVED ACTION**

4. True and complete copies of all the process and pleading served on Defendant in this action are attached as Exhibit A and no further proceedings have been had.

### **BASIS FOR JURISDICTION**

5. This Court has jurisdiction over this class action under the provisions of 28 U.S.C. § 1332(d) because:

- a. The number of members of all proposed plaintiff classes in the aggregate is greater than 100. *See Compl. ¶ 65* (alleging “that tens of thousands of Class Vehicles have been sold and leased nationwide”).
- b. Plaintiff, Chad Udeen, is a citizen of the State of Tennessee. Compl. ¶ 13.
- c. Plaintiff, Mary Jane Jeffery, is a citizen of the State of Florida. Compl. ¶ 27.
- d. Defendant Subaru of America, Inc. is a corporation incorporated under the laws of the state of New Jersey and has its principal place of business at 1 Subaru Drive, Camden, New Jersey 08103. Compl. ¶ 37.
- e. Minimal diversity exists between the parties because at least one member of the class of plaintiffs is a citizen of a state different from at least one defendant within the meaning of 28 U.S.C. § 1332(d)(2)(A). *See Compl. ¶¶ 13, 27, 37*. In fact, there is currently complete diversity because no named Plaintiff is a citizen of New Jersey. *Id.*
- f. The claims asserted by the plaintiff class, aggregated as required by 28 U.S.C. § 1332(d)(6), exceed the sum of \$5,000,000. *See Compl. ¶ 47* (seeking “damages,

costs, restitution, including punitive damages, penalties, and disgorgement”; injunctive relief in the form of nationwide recall and replacement program; “buyback of the Class Vehicles”; and attorneys’ fees).

- i. Plaintiff alleges that the class is comprised of “tens of thousands of vehicles.” Compl. ¶ 65. Indeed, as pleaded, the class exceeds 514,000 vehicles and comprises an even greater number of putative class members.
- ii. Even assuming a conservative class size of only 10,000 class vehicles, the \$5,000,000 threshold easily is met because Plaintiffs seek much more than \$500 per class member. The Court may take judicial notice of the fact that the Subaru vehicles in question often retail for considerably more than \$20,000 each. *See Build & Price*, <https://www.subaru.com/build-your-own.html> (last visited Dec. 18, 2018). Thus, Plaintiffs’ requested relief of a buyback, by itself, far exceeds the required amount in controversy.

- g. The primary defendant is not a state, state official, or other government entity within the meaning of 28 U.S.C. § 1332(d)(5)(A).
- h. Fewer than one-third of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed.
  - i. This action does not solely involve claims concerning a covered security under the Securities Act of 1933 or the Securities Exchange Act of 1934, the internal affairs or governance of a corporation, or the rights, duties, and obligations relating to any security.

WHEREFORE, Defendant files this notice to remove the action, now pending in the Superior Court of New Jersey, Law Division, Camden County, Docket No. CAM-L-004425-18,

from that court to this Court.

Dated: December 18, 2018

s/Neal Walters

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